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5 Attorneys for SUN MICROSYSTEMS, INC.,  
6 MORGAN, LEWIS & BOCKIUS LLP, AND MAKING  
A SPECIAL APPEARANCE FOR JEFFREY  
7 KINGSTON, WHO HAS NOT BEEN SERVED

8 UNITED STATES DISTRICT COURT  
9  
10 NORTHERN DISTRICT OF CALIFORNIA  
11  
12 SAN JOSE DIVISION

13 In re Application of Microsoft Corp.

Case No. 06-80038 JF (PVT)

14  
15 **SUPPLEMENTAL DECLARATION OF**  
**JEFFREY KINGSTON IN SUPPORT OF**  
16 **RESPONSE TO MICROSOFT**  
**CORPORATION'S OBJECTIONS TO**  
17 **MAGISTRATE'S ORDER**

18 Date: To Be Set  
19 Time: To Be Set  
Before: Honorable Jeremy Fogel  
Place: To Be Set

20 Complaint Filed: N/A  
21 Trial Date: N/A

1 I, Jeffrey S. Kingston, declare as follows:

2 1. I am an attorney at law licensed to practice in the State of California and before  
3 this Court. I am a partner with Morgan, Lewis & Bockius LLP ("Morgan Lewis") and have  
4 represented Sun Microsystems, Inc. ("Sun") in the European Commission ("Commission")  
5 proceeding concerning Microsoft Corp. ("Microsoft") since its inception when I filed the original  
6 complaint in December, 1998. In that capacity, I am familiar with the facts and history of this  
7 proceeding.

8 2. It is incontrovertible that the European Commission has the power to issue  
9 document requests and it does so often.

10 3. It is also incontrovertible that the European commission has the power to order  
11 production of the documents sought by Microsoft in the Application.

12 4. It is also true that these documents would be subject to being produced in Europe  
13 through our law offices in Brussels if the Commission were to order production.

14 5. I have practiced law before the European Commission for more than 18 years and  
15 am a specialist in European antitrust law.

16 I declare under penalty of perjury under the laws of the State of California that the  
17 foregoing is true and correct, and if called as a witness, I could competently testify thereto. This  
18 declaration was executed on April 14, 2006 in San Francisco, California.

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21 Jeffrey S. Kingston  
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